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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

10 **JEFFREY KATZ**, individually and on ) Case No.  
11 behalf of all others similarly situated, )  
12 ) **CLASS ACTION**  
13 Plaintiff, )  
14 vs. )  
15 ) **COMPLAINT FOR VIOLATIONS**  
16 **CONTRA COSTA SELF HELP** )  
17 **FOUNDATION INC.; TUNISIA** )  
18 **ISMALIA EVANS AL-** )  
19 **SALAHUDDIN**, and DOES 1 – 10, )  
inclusive, )  
20 )  
21 Defendant(s). ) **DEMAND FOR JURY TRIAL**  
22 )  
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24 Plaintiff, JEFFREY KATZ (“Plaintiff”), on behalf of himself and all others  
25 similarly situated, alleges the following upon information and belief based upon  
personal knowledge:

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**NATURE OF THE CASE**

1. Plaintiff brings this action for himself and others similarly situated  
seeking damages and any other available legal or equitable remedies resulting from

1 the illegal actions of CONTRA COSTA SELF HELP FOUNDATION INC. and  
 2 TUNISIA ISMALIA EVANS AL-SALAHUDDIN (collectively, “Defendants”), in  
 3 negligently, knowingly, and/or willfully contacting Plaintiff via “telephone  
 4 facsimile machine” in violation of the Telephone Consumer Protection Act, 47  
 5 U.S.C. § 227 *et seq.* (“TCPA”), thereby causing Plaintiff and all others similarly  
 6 situated to incur the costs of receiving unsolicited advertisement messages via  
 7 “telephone facsimile machines” and invading their privacy.

8 **JURISDICTION & VENUE**

9 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
 10 a resident of California, seeks relief on behalf of a Class, which will result in at  
 11 least one class member belonging to a different state than that of Defendants, which  
 12 are entities formed and headquartered in other states and individuals residing in  
 13 California. Plaintiff also seeks up to \$1,500.00 in damages for each facsimile  
 14 transmission in violation of the TCPA, which, when aggregated among a proposed  
 15 class in the thousands, exceeds the \$5,000,000.00 threshold for federal court  
 16 jurisdiction. Therefore, both diversity jurisdiction and the damages threshold under  
 17 the Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has  
 18 jurisdiction.

19 3. Venue is proper in the United States District Court for the Northern  
 20 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
 21 business within the state of California and Plaintiff resides within this District.

22 **PARTIES**

23 4. Plaintiff, JEFFREY KATZ (“Plaintiff”), is a natural person residing  
 24 in San Francisco County, California and is a “person” as defined by 47 U.S.C. §  
 25 153 (39).

26 5. Defendant, CONTRA COSTA SELF HELP FOUNDATION  
 27 (hereinafter, “Defendant FOUNDATION” or “FOUNDATION”), is a business  
 28

entities that provides community services and a “person” as defined by *47 U.S.C. § 153(39)*.

6. Defendant, TUNISIA ISMALIA EVANS AL-SALAHUDDIN (hereinafter “AL-SALAHUDDIN”) is the Chief Financial Officer of Defendant FOUNDATION. As FOUNDATION’s Chief Financial Officer, Defendant AL-SALAHUDDIN played a significant, material role in FOUNDATION’s overall success as well as its telephone marketing practices and procedures. AL-SALAHUDDIN was responsible for FOUNDATION’s overall success. AL-SALAHUDDIN is a “person” as defined by *47 U.S.C. § 153(39)*.

7. Defendants FOUNDATION and AL-SALAHUDDIN will be referred to collectively and hereinafter as “Defendants”.

8. The above named Defendant, and its subsidiaries and agents, are collectively referred to as "Defendants." The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the Complaint to reflect the true names and capacities of the DOE Defendants when such identities become known.

9. Plaintiff is informed and believes that at all relevant times, each and every Defendant was acting as an agent and/or employee of each of the other Defendants and was acting within the course and scope of said agency and/or employment with the full knowledge and consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts and/or omissions complained of herein was made known to, and ratified by, each of the other Defendants.

## FACTUAL ALLEGATIONS

10. Beginning in or around June of 2018, Defendants contacted Plaintiff on his telephone facsimile numbers ending in -3052 in an effort to sell or solicit

1 their services.

2 11. Defendants contacted Plaintiff via facsimile from telephone numbers  
3 confirmed to belong to Defendants.

4 12. Defendants contacted Plaintiff on or around June of 2018 in an effort  
5 to solicit their business.

6 13. Defendants' messages constituted "telephone solicitation" as defined  
7 by the TCPA, 47 U.S.C. § 227(a)(4) and "unsolicited advertisement" as defined by  
8 the TCPA, 47 U.S.C. § 227(a)(5).

9 14. Defendants used an "telephone facsimile machine" as defined by 47  
10 U.S.C. § 227(a)(3) to place its facsimile transmissions to Plaintiff seeking to sell or  
11 solicit their business services.

12 15. Defendants' facsimile transmissions constituted facsimile  
13 transmissions that were not for emergency purposes as defined by 47 U.S.C. §  
14 227(b)(1)(A).

15 16. Defendants' facsimile transmissions were placed to telephone  
16 facsimile numbers assigned to a telephone service for which Plaintiff incurs a  
17 charge for incoming messages.

18 17. Plaintiff is not a customer of Defendants' services and has never  
19 provided any personal information, including his telephone facsimile number, to  
20 Defendants for any purpose whatsoever. Accordingly, Defendants never received  
21 Plaintiff's "prior express consent" to receive facsimile transmissions using a  
22 telephone facsimile machine pursuant to 47 U.S.C. § 227(b)(1)C).

23 18. Furthermore, the messages that Defendants sent to Plaintiff lacked the  
24 "opt-out" notice pursuant to 47 U.S.C. § 227(b)(2)(D).

25 **CLASS ALLEGATIONS**

26 19. Plaintiff brings this action on behalf of himself and all others similarly  
27 situated, as a member of the proposed class (hereafter "The Class") defined as  
28 follows:

1  
2 All persons within the United States who received any  
3 telephone facsimile messages from Defendants to said  
4 person's telephone facsimile number made through the  
5 use of any telephone facsimile machine and such person  
6 had not previously consented to receiving such messages  
7 and such messages did not contain any opt-out notice  
8 within the four years prior to the filing of this Complaint

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14 20. Plaintiff represents, and is a member of, The Class, consisting of All  
15 persons within the United States who received any telephone facsimile messages  
16 from Defendants to said person's telephone facsimile number made through the use  
17 of any telephone facsimile machine and such person had not previously not  
18 provided their telephone facsimile number to Defendants within the four years prior  
19 to the filing of this Complaint, nor did the telephone facsimile message contain an  
20 opt-out notice.

21. Defendants, their employees, and their agents are excluded from The  
22 Class. Plaintiff does not know the number of members in The Class, but believes  
23 the Class members number in the thousands, if not more. Thus, this matter should  
24 be certified as a Class Action to assist in the expeditious litigation of the matter.

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28 22. The Class is so numerous that the individual joinder of all of its  
members is impractical. While the exact number and identities of The Class  
members are unknown to Plaintiff at this time and can only be ascertained through  
appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
The Class includes thousands of members. Plaintiff alleges that The Class members  
may be ascertained by the records maintained by Defendants.

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33 23. Plaintiff and members of The Class were harmed by the acts of  
34 Defendants in at least the following ways: Defendants illegally contacted Plaintiff  
35 and Class members via their telephone facsimile numbers thereby causing Plaintiff  
36 and Class members to incur certain charges or reduced telephone facsimile time for

1 which Plaintiff and Class members had previously paid by having to retrieve or  
2 administer messages left by Defendants during those illegal facsimile  
3 transmissions, and invading the privacy of said Plaintiff and Class members.

4       24. Common questions of fact and law exist as to all members of The  
5 Class which predominate over any questions affecting only individual members of  
6 The Class. These common legal and factual questions, which do not vary between  
7 Class members, and which may be determined without reference to the individual  
8 circumstances of any Class members, include, but are not limited to, the following:

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- 10       a. Whether, within the four years prior to the filing of this Complaint,  
11           Defendants sent telephone facsimile messages (other than for  
12           emergency purposes or made with the prior express consent of the  
13           called party and with an opt-out notice contained in the messages) to  
14           a Class member using any telephone facsimile machine to any  
15           telephone number assigned to a telephone facsimile service;
- 16       b. Whether Plaintiff and the Class members were damaged thereby, and  
17           the extent of damages for such violation; and
- 18       c. Whether Defendants should be enjoined from engaging in such  
19           conduct in the future.

20       25. As a person who received numerous messages from Defendant using  
21           a telephone facsimile machine, without Plaintiff's prior express consent, Plaintiff  
22           is asserting claims that are typical of The Class.

23       26. Plaintiff will fairly and adequately protect the interests of the members  
24           of The Class. Plaintiff has retained attorneys experienced in the prosecution of class  
25           actions.

26       27. A class action is superior to other available methods of fair and  
27           efficient adjudication of this controversy, since individual litigation of the claims  
28           of all Class members is impracticable. Even if every Class member could afford  
29           individual litigation, the court system could not. It would be unduly burdensome to  
30           the courts in which individual litigation of numerous issues would proceed.

Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

28. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class members not parties to such adjudications or that would substantially impair or impede the ability of such non-party Class members to protect their interests.

29. Defendants have acted or refused to act in respects generally applicable to The Class, thereby making appropriate final and injunctive relief with regard to the members of the California Class as a whole.

## **FIRST CAUSE OF ACTION**

## **Negligent Violations of the Telephone Consumer Protection Act**

47 U.S.C. §227 et seq.

30. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above.

31. The foregoing acts and omissions of Defendants constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

32. As a result of Defendants' negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

33. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

## **SECOND CAUSE OF ACTION**

1 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

2 **47 U.S.C. §227 et seq.**

3 34. Plaintiff repeats and incorporates by reference into this cause of  
4 action the allegations set forth above.

5 35. The foregoing acts and omissions of Defendants constitute numerous  
6 and multiple knowing and/or willful violations of the TCPA, including but not  
7 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*  
8 *seq.*

9 36. As a result of Defendants' knowing and/or willful violations of *47*  
10 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of  
11 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*  
12 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

13 37. Plaintiff and the Class members are also entitled to and seek  
14 injunctive relief prohibiting such conduct in the future.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

17 **FIRST CAUSE OF ACTION**

18 **Negligent Violations of the Telephone Consumer Protection Act**

19 **47 U.S.C. §227 et seq.**

20 • As a result of Defendants' negligent violations of *47 U.S.C.*  
21 *§227(b)(1)*, Plaintiff and the Class members are entitled to and  
22 request \$500 in statutory damages, for each and every violation,  
23 pursuant to *47 U.S.C. 227(b)(3)(B)*; and  
24 • Any and all other relief that the Court deems just and proper.

25 **SECOND CAUSE OF ACTION**

26 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

27 **47 U.S.C. §227 et seq.**

28 • As a result of Defendants' willful and/or knowing violations of *47*

*U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and *47 U.S.C. §227(b)(3)(C)*; and

- Any and all other relief that the Court deems just and proper.

## **JURY DEMAND**

38. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff reserves their right to a jury on all issues so triable.

Respectfully Submitted this 7th day of August, 2019.

## LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s Todd M. Friedman

Todd M. Friedman

## Law Offices of Todd M. Friedman

Attorney for Plaintiff